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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/548,261	04/12/00	HARGRO	I 03109-017002

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IM52/0410

EXAMINER	
THERKORN, E	
ART UNIT	PAPER NUMBER
1723	10

DATE MAILED: 04/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/548,261

Applicant(s)

HARGRO

Examiner

THERKORW

Group Art Unit

1723

☒ Responsive to communication(s) filed on 3/12/01

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 4-7 and 16-36 is/are pending in the application.

Of the above, claim(s) 4-7 and 16-21 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 22-36 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The amendment filed October 18 2000 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: New Figure 7.

Applicant is required to cancel the new matter in the reply to this Office action.

Claims 28-36 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support for "a second porous member spaced from said outlet end so as to define an outflow region between said second porous member and said outlet end". There is no support for the subject matter of each of claims 31, 32, 33, 34, 35, and 36.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 22-36 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Muller (U.S. Patent No. 4,732,687). The claims are considered to read on Muller (U.S. Patent No. 4,732,687). However, if a difference exists between the claims and Muller (U.S. Patent No. 4,732,687), it would reside in optimizing the elements of Muller (U.S. Patent No. 4,732,687). It would have been obvious to optimize the elements of Muller (U.S. Patent No. 4,732,687) to enhance separation.

Claims 22-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (U.S. Patent No. 4,732,687) in view of each of Stahl (U.S. Patent No. 4,093,550), Leavesley (U.S. Patent No. 5,601,708), and Haller (U.S. Patent No. 3,682,315). At best, the claims differ from Muller (U.S. Patent No. 4,732,687) in reciting the space for a sealing head. Stahl (U.S. Patent No. 4,093,550) (column 3, lines 21-24) discloses use of stoppers (i.e., sealing heads) mechanically confines sorbent. Leavesley (U.S. Patent No. 5,601,708) (column 1, lines 49-51) discloses that a cap (i.e., a sealing head) has a sealing structure for sealing an enclosure. Haller (U.S. Patent No. 3,682,315) (column 4, lines 8-33) discloses that use of a sealing head allows tightening to exert axial pressure on O-rings for sealing purpose. It would have been obvious to provide space for sealing heads in Muller (U.S. Patent No. 4,732,687) because Stahl (U.S. Patent No. 4,093,550) (column 3, lines 21-24) discloses use of stoppers (i.e., sealing heads) mechanically confines sorbent, or because Leavesley (U.S. Patent No. 5,601,708) (column 1, lines 49-51) discloses that a cap (i.e., a sealing head) has a sealing structure for sealing an enclosure, or because Haller (U.S.

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Patent No. 3,682,315) (column 4, lines 8-33) discloses that use of a sealing head allows tightening to exert axial pressure on O-rings for sealing purpose.

The remarks urge that the claims do not read on Muller (U.S. Patent No. 4,732,687). However, the recited space for receiving a module would appear to read on Muller (U.S. Patent No. 4,732,687)'s space for precolumn 6. The recited porous member is considered to read on Muller (U.S. Patent No. 4,732,687)'s perforated plate 3. As such, the claims are considered to read on Muller (U.S. Patent No. 4,732,687).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (703) 308-0362.


Ernest G. Therkorn
Primary Examiner
Art Unit 1723

EGT/11
April 6, 2001